

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

Julio Garcia-Laffitte, Jr. Plaintiff]	
]	
v.]	3:20cv00859
]	
LoanDepot.com, LLC]	JURY DEMANDED
Closing USA, LLC]	
Defendants]	

COMPLAINT

Mr. Garcia-Laffitte, by counsel, files this complaint against the above referenced Defendants for their violation of the Real Estate Settlement Procedures Act, Negligence, and Breach of Fiduciary Duty.

PRELIMINARY STATEMENT

1. This is an action by a consumer seeking actual damages, statutory damages, and damages, attorney fees and costs and for declaratory relief for defendants violation of The Real Estate Settlement Procedures Act (hereinafter “RESPA”), 12 U.S.C. § 2601 *et seq.*, the state torts of Negligence and Breach of Fiduciary Duty.

JURISDICTION, VENUE and JURY DEMAND

2. This court has jurisdiction, 28 U.S.C. §1331 (federal claims) for the RESPA claim and 12 U.S.C. §2614 grants jurisdiction to Federal courts, and the state law claims under 28 U.S.C. §1332 (diversity claims) and 28 U.S.C. §1367 (supplemental jurisdiction).
3. This is the proper venue because the plaintiff resides here, and the majority of the actions claimed happened within the confines of the Commonwealth of Virginia.
4. The court has personal jurisdiction over the defendants because they regularly transact business here, and caused tortious damages, such that they should expect to be hailed into court here.
5. **TRIAL BY JURY IS DEMANDED.**

PARTIES

6. Plaintiff is a natural person and a resident of the Commonwealth of Virginia.
7. Plaintiff is a person as defined by the Real Estate Settlement Procedures Act, 12 U.S.C. §2602(5).
8. Defendant Closing USA, LLC is a settlement service as defined by Real Estate Settlement Procedures Act, 12 U.S.C. §2602(2). They may also be a title company as defined by Real Estate Settlement Procedures Act, 12 U.S.C. §2602(3).

9. LoanDepot.com, LLC (“LoanDepot”) is a federally related mortgage company, and makes and services federally related mortgages.

FACTS

10. Plaintiff incurred a debt with Rushmore Mortgage in 2016 for a mortgage on his personal residence.
11. Plaintiff attempted to refinance his mortgage in October 2019, with LoanDepot paying off the loan with Rushmore.
12. Prior to obtaining any document with a signature of plaintiff, LoanDepot changed the loss payee of the homeowners insurance to themselves. LoanDepot was not the owner or servicer of the loan at the time of the change of loss payee.
13. LoanDepot directed the plaintiff to close with their related agent, Closing USA, LLC.
14. The closing of the refinance of the loan was completed on or about October 15, 2019.
15. LoanDepot directed plaintiff NOT to pay Rushmore, stating that the refinance would payoff the loan, and therefore no payment would be due.
16. Closing USA, LLC failed to disburse funds until after November 7, 2019.
17. Plaintiff's loan with Rushmore was caused to be late and to so indicate on his credit file.
18. Closing USA, LLC knew or should have known that they were required to disburse the funds from the closing within 3 days of the date of closing, yet they failed to do so.

19. Closing USA, LLC had a fiduciary duty to the plaintiff to disburse the funds on the 3rd day after the closing, yet they failed to do so.
20. On information and belief, Closing USA, LLC is owned by or operated by, or is closely related to LoanDepot.
21. As a result of the actions and inactions of the defendants, the plaintiff suffered damages, including *but not limited to* mental and emotional distress, and consequential damages to credit file, related to the failure of the defendants.

COUNT ONE:
CLAIM FOR RELIEF
AS TO CLOSING USA, LLC and LOANDEPOT.COM, LLC
REAL ESTATE SETTLEMENT PROCEDURES ACT 12 U.S.C. §1601 et seq

22. Plaintiff restates and re-alleges all previous paragraphs herein.
23. Defendants have violated 12 U.S.C. §1601 et seq in that they changed the loss payee of the plaintiffs insurance before the closing, they initiated the closing of the loan before the loan was funded, and they directed the closing to be completed by a closely related entity which was not disclosed.
24. Defendants have done so either negligently or willfully.
25. Plaintiff is entitled to actual damages, punitive damages, attorney fees and costs pursuant to 12 U.S.C. §1605(f).

COUNT TWO
CLAIM FOR RELIEF As to LoanDepot.com, LLC and Closing USA, LLC
Negligence

26. Plaintiff restates and realleges all previous paragraphs herein.
27. Defendants have negligently caused damages to the plaintiff.

28. Defendants have caused injury in fact, by causing, among other effects, mental and emotional distress, damage to credit reputation and resulting in credit damages to plaintiff.
29. Defendants have done so negligently.
30. Plaintiff is entitled to actual damages and costs for the state tort of negligence.

COUNT THREE

CLAIM FOR RELIEF AS TO CLOSING USA, LLC

BREACH OF FIDUCIARY DUTY

31. Plaintiff restates and realleges all previous paragraphs herein.
32. Closing USA, LLC had a fiduciary duty to both plaintiff and to other parties to conduct the closing in a manner which complied with federal and state laws, and complied with state escrow laws.
33. Closing USA, LLC breached that fiduciary duty by changing the loss payee of the insurance prior to holding the closing, failing to receipt and forward funds, and conducting a closing without properly forwarding the closing funds.
34. Because of the breach of fiduciary duties by Closing USA, LLC, plaintiff was lied to and suffered damages as a result of the false representations and breaches of fiduciary duties.
35. Plaintiff seeks damages, and costs.

WHEREFORE, the plaintiff, by counsel moves for judgment in an amount to be determined by a finder of fact.

Julio Garcia-Laffitte, Jr.

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